



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,538	08/16/2001	Steven Dale Goodman	RPS9 2001 0043	3276

25299 7590 04/04/2005

IBM CORPORATION
PO BOX 12195
DEPT 9CCA, BLDG 002
RESEARCH TRIANGLE PARK, NC 27709

EXAMINER

DU, THUAN N

ART UNIT	PAPER NUMBER
----------	--------------

2116

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/931,538

Applicant(s)

GOODMAN ET AL.

Examiner

Thuan N. Du

Art Unit

2116

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 and 5 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6 and 7 is/are rejected.
- 7) ☒ Claim(s) 3 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. It is hereby acknowledged that the following papers have been received and placed of record in the file: Amendment and Drawings filed on 1/3/05.
2. Claims 1-8 are presented for examination.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

4. Claims 1, 2, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admission of prior art [AAPA] and Bartel et al. [Bartel] (U.S. Patent No. 6,754,895).
5. Regarding claim 1, AAPA teaches a method for re-booting an operating system software in a data processing system, comprising the steps of:

 performing a signature verification on a remainder of the BIOS image [application's specification, p. 3, lines 5-13]; and

 proceeding with re-boot of the operating system software if the signature verification correctly verifies the remainder of the BIOS image [application's specification, p. 3, lines 11-13].

 AAPA does not explicitly teach the step of determining whether a buffer contains a message indicating that a BIOS image for the data processing system was previously updated.

Bartel teaches a method of updating firmware comprising the step of determining a buffer (nonvolatile memory) contains a message (flag) indicating that a BIOS image (firmware) for the data processing system was previously updated [col. 8, lines 13-16].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of AAPA to include the step of determining whether BIOS image was previously updated as taught by Bartel. The modification would speed up AAPA's boot process because a specific process need not to be perform every time the system boots up [Bartel, col. 8, lines 19-23].

6. Regarding claim 2, AAPA teaches that the system is re-booted if the signature is valid [application's specification, p. 3, lines 11-13]. Therefore, inherently, the system will not re-booted if the signature is invalid.

7. Regarding claims 6-7, AAPA and Bartel together teach the claimed method steps. Therefore, AAPA and Bartel together teach the computer program product for carrying out the claimed method steps.

Allowable Subject Matter

8. Claims 4-5 are allowed.

9. Claims 3 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 2116

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuan N. Du whose telephone number is (571) 272-3673. The examiner can normally be reached on Monday and Wednesday-Friday: 9:30 AM - 8:00 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on (571) 272-3670.

Central TC telephone number is (571) 272-2100.

The fax number for the organization is (703) 872-9306.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).



Thuan N. Du
March 24, 2005